

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,)	02-CR-444-1
)	
vs.)	
)	
ANTHONY LAMAR WILLIAMS,)	
)	Philadelphia, PA
)	September 13, 2007
Defendant.)	12:03 p.m.

TRANSCRIPT OF VIOLATION OF SUPERVISED RELEASE HEARING
BEFORE THE HONORABLE JAMES T. GILES
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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1 (The following was heard in open court at 12:03
2 p.m.)

3 MR. BRENNAN: Good afternoon, Your Honor.

4 THE COURT: Good afternoon. Please be seated.

5 Appearances, please, counsel for the record.

6 MR. TROYER: Good afternoon, Your Honor. David
7 Troyer, Assistant U.S. Attorney for the United States. I'm
8 accompanied today by United States Probation Officer, Jane
9 Schoonmaker.

10 MR. BRENNAN: Good afternoon, Your Honor.
11 William J. Brennan, CJA counsel for the defendant, Anthony
12 Lamar Williams, who's to my right at counsel table.

13 THE COURT: Mr. Williams, would you please stand,
14 sir, to be sworn or affirmed. Raise your right hand and state
15 your name.

16 THE DEFENDANT: Anthony Lamar Williams.

17 ANTHONY LAMAR WILLIAMS, DEFENDANT, SWORN

18 COURTROOM DEPUTY: Thank you. Please be seated.

19 THE COURT: What are the claimed violations?

20 What are the claimed violations?

21 MR. TROYER: The violations in this case as outlined
22 in the -- in the petition are that the defendant failed to
23 report as directed to the probation officer and to the Court
24 and to submit complete written reports.

25 The defendant was reminded of his reporting

1 requirements and his drug testing requirements. The defendant
2 failed to report on August 16th, 2006, September 13th, 2006,
3 September 20th, 2006, October 11th, 2006, November 16th, 2006,
4 November 21st, 2006, November 22nd, 2006, December 6th, 2006,
5 December 12th, 2006, December 13th, 2006, December 21st, 2006,
6 December 28th 2006, and January 4th, 2007.

7 He was also not available for a prearranged home
8 visit on November 20th, 2006. As a result, these -- these are
9 violations of Grade C violations. The last contact with Mr.
10 Williams with the Probation Office was at his home on
11 November 14th, 2006, and, after which time, Mr. Williams
12 absconded.

13 The next one is a violation of Standard Condition 7,
14 "The defendant shall refrain from excessive use of alcohol and
15 shall not purchase, possess, use, distribute or administer
16 controlled substances or any paraphernalia."

17 On September 15th, 2006, Mr. Williams tested
18 positive for morphine. He did not have a prescription for
19 this medication. After failing to provide a valid
20 prescription, he admitted on October 21st, 2006, that he may
21 have taken his girlfriend's prescription medication. The next
22 one is -- that is also a Grade C violation.

23 The next one is that he shall participate -- "The
24 defendant shall participate in drug aftercare treatment
25 programs."

1 The -- since his violation hearing in August of
2 2006, he had advised that he was attending outpatient
3 appointments, was on a waiting list for an inpatient
4 appointment. However, the defendant, after having been seen
5 at the Veteran's Administration and having been given an
6 inpatient bed on October 26th, 2006, Mr. Williams called the
7 V.A. and advised them that he needed a new date for
8 reporting, a new date for the bed because of alleged deaths in
9 his family.

10 A new date was given to him, however, he failed to
11 report to the inpatient program as agreed on November 7th,
12 2006, and he did not report back again after that. That is
13 also a Grade C violation.

14 Those are the violations alleged in the current
15 petition. Yeah. And that -- there has been an arrest since
16 then. Also, recently, in the City of Philadelphia, Mr. --
17 after Mr. Williams had absconded, that is how Mr. Williams was
18 brought back, once again, to this Court is -- is through an
19 arrest in the City of Philadelphia.

20 So, he was arrested on -- on yet another burglary
21 charge on July 14th, 2007, and having spent some time in the
22 City, he was recently released to the custody of the U.S.
23 Marshals for -- for the purpose of this hearing.

24 That case is pending by the way. There was recently
25 a preliminary hearing. He was held over for trial in that

1 case, but that case has not been disposed.

2 THE COURT: Mr. Brennan.

3 MR. BRENNAN: Your Honor, with respect to the
4 recitation of the violations, to my understanding having met
5 with Mr. Williams and having spoken prior to today's hearing
6 with Probation Office Schoonmaker, that Mr. Williams does not
7 contest the violations themselves and will stipulate to them.
8 He wishes, obviously, to address them and offer mitigation.

9 I do not represent him, Your Honor, on the local
10 case. I have represented him for, I don't know, I guess the
11 better part of eight or nine years along with this Court and
12 Mr. Troyer, as CJA counsel. His fiancé, Baaqia Badia, is here
13 in Court and reports to me as does Mr. Williams that the local
14 matter has been reduced to summary offenses but I am not
15 counsel in that case. I -- I make that representation simply
16 as a conduit of the information that was passed on to me, not
17 as an officer of the Court.

18 Pardon me, Your Honor.

19 (Pause in proceedings.)

20 MR. BRENNAN: Your Honor, the failure to report
21 allegations that we've addressed in the past, Mr. Williams
22 asks me to present to the Court -- and I'll show a copy --
23 I've just received this from Ms. Badia, that he has been
24 working.

25 I have a letter from -- I'll mark it as Defense 1

1 with the Court's permission for identification purposes, from
2 PHA Property Management, LLC, of 243 Glenside Avenue, Holmes,
3 H-O-L-M-E-S, PA, 19043 from Kelly Leahan, L-E-A-H-A-N,
4 indicating that Ms. Leahan certifies Mr. Williams was
5 subcontracted as a laborer of PHA Property Management from
6 February, 2007, through July, 2007.

7 Ms. Leahan is aware that Mr. Williams is
8 incarcerated and he will have a job with PS -- PHA when
9 released. So I'll show it to counsel and submit it to the
10 Court for Your Honor's consideration.

11 Mr. Williams indicates to me that his job schedule
12 was such that he had to make decisions as to whether or not to
13 report or to lose the job. He further reports to me and I'm
14 sure Ms. Schoonmaker can verify and will correct me if I'm
15 wrong, that while he did have some failures to report on his
16 scheduled visits, that he was, in fact, taking a drug test
17 which is -- may I hand this up, Your Honor? And he --

18 THE COURT: Yes.

19 MR. BRENNAN: -- wishes the Court to take those into
20 -- those factors into consideration. I believe Ms. Badia,
21 with the Court's permission, would like to speak on his
22 behalf.

23 THE COURT: But first, Mr. Williams?

24 THE DEFENDANT: Hm-hmm.

25 THE COURT: The claims against you by the

1 Prosecution have been reviewed here in Court. Did you hear
2 those?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: Do you admit that you violated the
5 conditions of supervised release as stated?

6 THE DEFENDANT: The Class C violation, as far as me
7 having an arrest pending, that arrest was dismissed.

8 THE COURT: That matter's not before me.

9 THE DEFENDANT: Okay. As far as the -- not seeking
10 out -- outpatient treatment, I did seek outpatient treatment.
11 That was part of the dilemma because between the outpatient
12 treatment and my job and the home visits. Ms. Schoonmaker
13 knew that I was working during the hours -- the daily hours so
14 she would give me a home visit so how could I be home and work
15 at the same time and --

16 THE COURT: Well, do you admit to the violations as
17 outlined in this petition?

18 THE DEFENDANT: This is the first time I seen this
19 violation so I didn't even get a chance to read them.

20 THE COURT: Well, do read it. They do not include
21 anything about the --

22 THE DEFENDANT: Okay.

23 THE COURT: -- burglary charge.

24 MR. BRENNAN: May he be seated, Your Honor?

25 THE COURT: Yes.

1 (Pause in proceedings.)

2 THE DEFENDANT: Yes, I -- I -- as far as seeking the
3 outpatient treatment, as far as me claiming that I called out
4 saying that I rescheduled for a bed, I was on a waiting list
5 for inpatient treatment at the V.A. I was analyzed and I was
6 told that I was not -- did not qualify for inpatient to -- to
7 the fact that it was people who needed it more than me. And
8 the fact that I was working everyday and I would go to the
9 outpatient treat -- treatment twice a week with my busy
10 schedule and I was taking -- going to take the urines here
11 every week.

12 And as far as the visits -- the home visit, I got a
13 letter from her that my mother's boyfriend never gave to me.
14 I hadn't -- it was two weeks when I got the letter saying that
15 I had to report to her on a Wednesday or she would put a
16 warrant out for my arrest. That was two -- two weeks prior so
17 that's when the warrant was issued so that's when the problems
18 -- I had to make a choice to either stay at my job which they
19 didn't know that I was on a supervised release. I feared that
20 I was going to lose my job.

21 Since I've been arrested, I contacted my job. They
22 said that I can have my job when I get out, whatever, but that
23 was the main issue. I didn't want to lose my job so as far as
24 Ms. -- Ms. Schoonmaker not compromising at all with me when I
25 would come late, I would not get home till 8:00 so I could not

1 be there at 7:00 which -- before 6:00 so --

2 THE COURT: Did you tell the probation officer that
3 you were working for PHA?

4 THE DEFENDANT: At the time -- at the time, I
5 started working in February but at that time, I was working
6 over in Jersey so I had to take two buses but --

7 THE COURT: Did you ever tell her that you were
8 working for PHA?

9 THE DEFENDANT: No. I got that job in February.

10 THE COURT: February, '07?

11 THE DEFENDANT: Yes. I was working over in Jersey
12 during the time. All -- since my release, then -- release in
13 2006, I've been working but this is a steady job that I have
14 now.

15 So when she -- I read the letter saying I would have
16 the warrant so if report and get the warrant, I'd be locked up
17 anyway so I just, you know, decided to stay on the job. And
18 when she came to get me, I figured, you know, there's nothing
19 I can do -- I just have to take the punishment.

20 THE COURT: So, you deny that you were in violation
21 of supervised release with respect to the out -- inpatient --

22 THE DEFENDANT: Yes.

23 THE COURT: -- requirement?

24 THE DEFENDANT: Yes, I'm -- see, I'm not doing -- I
25 went to the outpatient treatment because of me, not because I

1 was demanded, you know, I just did it for my own sake. So,
2 I -- I went and -- I sought out treatment but they analyzed me
3 and said that I didn't have to go to inpatient treatment
4 because down the V.A. is more severe cases than I was. You
5 got homeless guys down there.

6 So, they said I have to wait for a bed so I was
7 doing the outpatient treatment, you know, then I had to go
8 make that appointment and I had to go take the urinalysis,
9 then, I had to be at home when she told me to be at home, so,
10 you know --

11 THE COURT: Were you given a date of November 7,
12 2006?

13 THE DEFENDANT: Not -- never -- I don't know where
14 she got that date from. I have no idea where she got that
15 date, and she -- now, I explained to her --

16 THE COURT: When was the last time you contacted the
17 V.A.?

18 THE DEFENDANT: In January. I had to get my
19 medicine from the V.A. My Dilantin and my blood pressure
20 medicine.

21 THE COURT: When was the last time you contacted the
22 V.A. about inpatient treatment?

23 THE DEFENDANT: Mr. Allen -- I contacted Mr. Allen
24 back in December and it was still -- well, I was going -- at
25 that time, basically, I was working and as far as inpatient

1 treatment, I thought I was, you know, well enough, you know,
2 to keep outpatient treatment. So, basically, Mr. Allen was
3 very busy with the other veterans, so.

4 You know, and I talked to Ms. Schoonmaker. She said
5 it was okay, you know, I had no ideas that she would violate
6 me for that issue.

7 THE COURT: What was okay?

8 THE DEFENDANT: That I just remain with the
9 outpatient treatment.

10 THE COURT: When did she tell you that?

11 THE DEFENDANT: She told me that on a home visit.

12 THE COURT: When?

13 THE DEFENDANT: Back in November.

14 THE COURT: Why didn't you contact her after
15 November?

16 THE DEFENDANT: The problem was, she told -- they --
17 the Probation Department went to a color-based urinalysis. My
18 color was black. I would call everyday to see if I -- which
19 day I take the urinalysis. She said that I had -- didn't have
20 to see her anymore, basically, just I -- just to see her to
21 bring in my pay stubs or whatever.

22 So, I was taking a urinalysis, then, one -- two
23 weeks later, she had came for the home visit --

24 MR. BRENNAN: Excuse me, Mr. -- may I just have a
25 moment, Your Honor?

1 (Pause in proceedings.)

2 MR. BRENNAN: Thank you, Your Honor.

3 THE DEFENDANT: I'm not a -- I mean, I'm not sitting
4 here, well, I might have misunderstood what she meant about me
5 getting inpatient treatment. I'm not trying to throw her
6 under the bus but like I said, I have no idea of why she put
7 down what she put, but as far as me calling the V.A. saying
8 that I didn't want the bed, I did not do that.

9 I couldn't get a bed anyway because it wasn't ready
10 for me. I was analyzed and they -- they came to the decision
11 that I didn't need inpatient treatment.

12 THE COURT: Thank you. I'll hear from the probation
13 officer with respect to the inpatient treatment.

14 MS. SCHOONMAKER: During my visits with Mr.
15 Williams, we frequently talked about treatment at the V.A. and
16 he every time would tell me that he was waiting for an
17 inpatient date.

18 If I could look up my notes, I can find one that --
19 where he told me that --

20 THE COURT: The defendant was required by the Court
21 to participate in a drug aftercare program and intensive drug
22 treatment program.

23 MS. SCHOONMAKER: Yes.

24 THE COURT: And the V.A. program was acceptable as
25 such a treatment program.

1 MS. SCHOONMAKER: Yes.

2 THE COURT: Did you excuse Mr. Williams from
3 compliance with the Court's direction?

4 MS. SCHOONMAKER: No, I did not.

5 THE COURT: At any time?

6 MS. SCHOONMAKER: No.

7 THE COURT: Did you tell him that if he enrolled in
8 an inpatient treatment program and participated in it, that
9 would satisfy the condition of intensive drug treatment?

10 MS. SCHOONMAKER: I did not have that specific
11 conversation about inpatient treatment being the final
12 treatment.

13 THE COURT: Well, not final treatment but that --
14 that was what was required by the Court order.

15 MS. SCHOONMAKER: Yes.

16 THE COURT: In the petition, it says that Mr.
17 Williams was given a bed date of November 7, 2006, by Mr.
18 Allen.

19 What is the basis for that representation?

20 MS. SCHOONMAKER: When I spoke to Mr. Allen, he told
21 me that he had scheduled Mr. Williams twice for inpatient
22 treatment and he failed to follow through with the last bed
23 date.

24 THE COURT: And that date was November 7?

25 MS. SCHOONMAKER: Yes.

1 THE COURT: Did Mr. Williams advise you that he
2 could not participate or he thought he couldn't participate in
3 the inpatient program because he was working, it would
4 interfere with his work?

5 MS. SCHOONMAKER: No.

6 THE COURT: Where did you believe he was working?

7 MS. SCHOONMAKER: He told me that he was calling to
8 Manpower every day looking for work. He never reported any
9 stable employment.

10 THE COURT: Were you under the impression he was
11 working in New Jersey?

12 MS. SCHOONMAKER: Not at that time.

13 THE COURT: When did you become aware that he was
14 claiming to work in New Jersey?

15 MS. SCHOONMAKER: This was after the first violation
16 proceedings two years ago. He worked for a short time in New
17 Jersey and, then, that ended and that was the last that I had
18 heard he was working in New Jersey. He did not have any
19 steady employment.

20 After the last violation hearing, he never provided
21 me with any pay stubs or payments towards the special
22 assessment or the restitution and he never claimed to have a
23 steady job.

24 THE COURT: Did he fill out reports with respect to
25 his work or lack of work?

1 MS. SCHOONMAKER: The last report I have from him is
2 October. He reported working for Boscov's in October and
3 September but never provided any pay stubs. October, there
4 was no employment.

5 THE COURT: What efforts, if any, did you make to
6 contact Mr. Williams on or after November 14, 2006?

7 MS. SCHOONMAKER: I went by the house and I left
8 appointment notices. I spoke to his mother's boyfriend who
9 didn't know where he was or he wasn't home so I would leave an
10 appointment notice for him to come in.

11 The last appointment notice I left at his house was
12 on December 8th.

13 THE COURT: Was anyone home at the time?

14 MS. SCHOONMAKER: December 8th -- no.

15 THE COURT: Did you ever send a letter to his
16 address?

17 MS. SCHOONMAKER: I did not mail any. I left an
18 appointment notice with his mother's boyfriend on November
19 20th to come in on November 22nd. But he was also supposed to
20 be reporting for the urine testing through the Code-A-Phone
21 Program which he was not doing as well.

22 THE COURT: How did that work?

23 MS. SCHOONMAKER: He would have to call a phone
24 number every day and he was assigned a color. If his color
25 came up, he would have to come in the next day for testing.

1 THE COURT: On what dates did his number come up, if
2 you --

3 MS. SCHOONMAKER: We started the program at the
4 beginning of -- the beginning of November.

5 The first time his color came up was November 16th.
6 The second time was November 22nd. The next was December 6th.
7 The next was December 13th, then, on the 21st, December 28th
8 and January 4th at which time I had to issue the warrant.

9 THE COURT: Was he taken out of the Code-A-Phone
10 Program at that point?

11 MS. SCHOONMAKER: Yes.

12 THE COURT: Under violation B to which defendant --
13 as which the defendant admits the violation, what medication
14 was the defendant taking?

15 MS. SCHOONMAKER: He told me that he may have taken
16 his girlfriend's prescription of Tylenol 4 with codeine which
17 would result in a morphine positive.

18 He tested positive one other time but he did have a
19 valid prescription for that --

20 THE COURT: For morphine?

21 MS. SCHOONMAKER: -- and I did not charge him with
22 that.

23 THE COURT: Was it for morphine that he previously
24 tested positive?

25 MS. SCHOONMAKER: No, it was hydrocodone.

1 THE COURT: And what prescription did he have?

2 MS. SCHOONMAKER: He had a prescription for
3 hydrocodone and tested positive for hydrocodone at a different
4 time.

5 THE COURT: From what condition did he suffer so as
6 to have a prescription?

7 MS. SCHOONMAKER: He claimed to have had an abscess
8 on his bottom and had to go to the hospital.

9 THE COURT: All right. Anything else, Mr. Brennan,
10 on claimed violation C, the V.A. inpatient program?

11 MR. BRENNAN: No, Your Honor, only what the
12 defendant has offered as mitigation or an explanation for
13 his --

14 THE COURT: I find by preponderance of the
15 evidence --

16 MR. BRENNAN: -- failure to attend.

17 THE COURT: -- that the defendant has failed to
18 report to the V.A. Hospital for inpatient treatment on
19 November 7, 2006 and thereafter.

20 By his admissions and by the Court's findings, the
21 defendant stands in violation of the conditions cited --
22 conditions of supervised release cited.

23 The question before the Court now is whether or not
24 there should be revocation of the supervised release. What is
25 the position of the prosecution?

1 MR. TROYER: Your Honor, the Government asks that
2 the Court does revoke the defendant's supervised release.

3 This -- this defendant has -- has proven himself to
4 be just completely non-amenable to supervision. He -- he
5 doesn't abide by conditions. He doesn't comply with the
6 conditions mandated by the Court. He doesn't report to the
7 Probation Department and, then, after a series of those, he
8 absconds and this has been a repeated pattern.

9 Were this the first time the defendant was in -- in
10 front of this Court for violations of supervised release,
11 then, perhaps revocation might be too harsh a sanction but
12 this is not the first time. This defendant has been before
13 this Court repeatedly and the pattern of conduct is -- is
14 remarkable.

15 Again, it's always the same, failure to comply,
16 failure to report; he absconds, then, he gets picked up on --
17 until -- on his next arrest and brought before the Court.

18 He's always got an explanation. He's always got an
19 excuse. He always blames somebody else for his problems. He
20 blames the Probation. He blames the V.A. He says it's always
21 somebody else's fault. It's always somebody else's fault
22 except Anthony Williams according to Anthony Williams and,
23 again, he's doing the same thing here.

24 Normally, we would want the defendant to remain on
25 supervised release in this situation because he still has an

1 outstanding balance of his restitution and he hasn't even paid
2 his special assessment over all these years from 2002. But in
3 this circumstance, I -- I don't think that supervision is
4 anything but -- but, frankly, a waste of time and -- and
5 Government money on Anthony Williams.

6 And as a result, I think what -- the only thing the
7 Court can really do is, based on Anthony Williams' own
8 conduct, is -- is to warehouse him, is to punish him for his
9 violations and because then the question becomes, you know,
10 what -- what sanction should be applied and -- and I know that
11 the Guideline range is seven to 13 but Mr. Williams has been
12 incarcerated now for nine months.

13 He -- he is entitled to credit time served for the
14 nine months that he's been in under -- under -- and I think that
15 would -- to simply give him a Guideline range sentence which,
16 of course, are only advisory and have only -- always only have
17 been advisory in -- in these situations anyhow would -- would
18 be practically to reward Mr. Williams for his bad conduct and
19 would affirm Mr. Williams' obvious view that he has that he
20 can just play the system every time and just fail to comply
21 with every -- every Court mandate.

22 THE COURT: What is the statutory maximum for a
23 violation?

24 MR. TROYER: I am urging the statutory maximum which
25 is 36 months in this case. Mr. Williams has -- has earned

1 that sentence at this point and -- and, again, I think,
2 this -- in this situation, he is in that small category --
3 category of persons who just will not be supervised, will not
4 comply and will not respect the -- the orders of the Court.

5 I might add, too, that he was not, despite his
6 claims here today, was not getting drug treatment because he
7 yearned for drug treatment and it was all something he was
8 doing on his own.

9 This defendant came before this Court last time
10 and -- and his excuse -- his main excuse of many last time was
11 that, well, whatever problems I had, I've had a drug problem,
12 it's because I have drug problems and I need drug help.
13 And -- and that's why that was mandated. It was -- it was
14 ordered by the Court and it was ordered by the Court at the --
15 essentially, at the defendant's request or, at least, because
16 of the defendant's own claims.

17 Now, he comes in and he says, well, I didn't really
18 need it but I wanted it, and so, you know, no harm, no foul,
19 essentially. And that's just simply not -- not the case. He
20 even tried to claim he didn't read the petition before he came
21 into Court.

22 He says, oh, I have a job. He comes in, he offers
23 last minute submissions. I can't -- we can't verify whether
24 there's any -- any employer who's really willing to take him
25 on. But even assuming that there is with this last minute,

1 unverified submission of Mr. Williams which he always seems to
2 have ready on the day of Court but not before, Mr. Williams
3 never reported that -- that employment to his probation
4 officer and, of course, he didn't because he was a fugitive
5 then.

6 If, as he claims, he -- he obtained that current --
7 or that last job in February of 2007, that was -- that was
8 three months, almost three months, after the last time he saw
9 his probation officer and he was already in fugitive status
10 then. So, he -- he was not -- he was not compliant whether or
11 not he -- he had a job.

12 And, so I think, unfortunately, this is really --
13 Mr. Williams really doesn't leave the Court with too many
14 options here, I mean, viable options, perhaps, I would submit.
15 And, I think, the only thing -- only reasonable option is
16 to -- is to sentence Mr. Williams to the amount of time that
17 he has earned which -- which in the Government's view is 36
18 months and to revoke his supervised release.

19 THE COURT: Does the Government seek a re-imposition
20 of the supervised release?

21 MR. TROYER: No, I'm not because I don't -- I don't
22 believe Mr. Williams will -- will ever be -- be amenable to
23 supervised release. I think supervised release is -- is
24 something that's -- that is not -- frankly, it's going to burn
25 up more Government resources. It will not -- it certainly

1 will not help Mr. Williams. I don't think it's going to be
2 beneficial to the Government either.

3 THE COURT: And how about the fine and the special
4 assessment?

5 MR. TROYER: The special assessment, obviously, he
6 still owes and -- and he would be -- he has to pay that. It
7 is mandatory, but I -- although, quite frankly, I -- I doubt
8 that we'll ever see that money.

9 THE COURT: Mr. Brennan?

10 MR. BRENNAN: Your Honor, would the Court permit me
11 to call Baaqia Badia on the defendant's behalf?

12 THE COURT: Yes.

13 MR. BRENNAN: Ms. Badia, would you step up, please?
14 Where would you like her, Your Honor, the podium
15 or --

16 (Pause in proceedings.)

17 COURTROOM DEPUTY: Please state your full name for
18 the record and spell your name for the record.

19 THE WITNESS: Baaqia Badia, B-A-A-Q-I-A, last name,
20 B-A-D-I-A.

21 COURTROOM DEPUTY: Please raise your right hand.

22 BAAQIA BADIA, DEFENDANT'S WITNESS, SWORN

23 COURTROOM DEPUTY: Thank you.

24 MR. BRENNAN: Ms. Badia, this is an opportunity to
25 speak to the Court, not necessarily about facts or

1 circumstances of the case but more to reasons that the Court
2 should fashion an appropriate sentence for Mr. Williams, your
3 fiancé.

4 MS. BADIA: I believe he has been trying -- in fact,
5 I know he has been as far as going to the V.A. because there's
6 been a time where I took him to the V.A. where we were at the
7 Y and he said something about hypertension so he has gone
8 there and he has gone to seek drug counseling as well.

9 He even on the weekends late at night -- my mom is a
10 recovering addict in Narcotics Anonymous and she has 17 years
11 clean and he has meetings with my mom, and they would talk
12 about recovery and addictions, other addict and things like
13 that.

14 THE COURT: Were aware of his conditions since
15 supervised release?

16 MS. BADIA: Supervised release, no. Only thing I
17 know, when he told me that he had to report, you know, I know
18 he was working over in Camden. And when -- this was like, I'm
19 going to say, around, like, October of '06. He was working
20 over in Camden and I know he did go for a job at Boscov's
21 because he was excited and he did let the probation officer
22 know that as well.

23 And as far as the job with PHA, that is still
24 available upon his release and he has been trying very hard
25 and he has been trying all the way around the board and I just

1 see the change in him since I've known him from what he used
2 to do as to what he's doing now.

3 And as far as him saying that, you know, he's
4 getting too old. He has to make a change and if he was given
5 an opportunity, that he would not make that mistake ever again
6 and I believe him.

7 THE COURT: Any questions?

8 MR. TROYER: Ma'am, were you -- were you aware
9 that -- that he's -- that he was a fugitive?

10 MS. BADIA: No.

11 MR. TROYER: Were you aware that he wasn't reporting
12 to -- to the probation officer since November of 2006?

13 MS. BADIA: No.

14 MR. TROYER: He didn't share that with you?

15 MS. BADIA: No.

16 MR. TROYER: All right. Thank you.

17 THE COURT: Thank you, ma'am.

18 MR. BRENNAN: Thank you, Ms. Badia.

19 Your Honor, again, with regard to much of what the
20 prosecution has said with regard to the chronology of the
21 matter, the defense has no dispute. We have been here more
22 than once.

23 Your Honor, I'm -- that concludes my remarks.

24 THE DEFENDANT: Okay. I'd like to say something,
25 Your Honor.

1 Okay. I was here more than once but the violations
2 when I was here last time, I was -- I was here for an arrest
3 and after everything was said and done, I -- I was -- the
4 arrest was dismissed.

5 As far as me not seeking treatment for the -- of the
6 -- it says right here I -- I received treatment on October the
7 18th and I got a bed date. That was -- I did -- they was
8 going to give me a bed date but I was not analyzed for
9 inpatient treatment so as far as me working, she knew -- I
10 never -- she stated that I was before her two years ago. She
11 wasn't even my probation officer.

12 The last time I was here, it was in August the 8th
13 and she knew that I was working over in New Jersey. That was
14 one of the conditions, that I had to go get a job. So she
15 stated that she had no idea I was working over in Jersey and
16 as far as the morphine, I stated to her that I was taking the
17 hydrocodone. I don't know if that would tested positive for
18 morphine. So as far as this -- the record --

19 THE COURT: Did you take your girlfriend's
20 medication?

21 THE DEFENDANT: I took a Tylenol 4 but it was, yeah,
22 the Tylenol 4, that's what I told them. But I thought that
23 was codeine. It was a -- oxycodone was the same thing. I did
24 have a cyst -- I gave her the prescription. I gave her the
25 prescription. I had a cyst. I had a little minor surgery and

1 I had the prescription and it -- and it validated around the
2 dates.

3 And as far as me taking the urinalysis, I was going
4 to be taking a urinalysis and working. So, and for the
5 violations before, I was -- yes, I was here before, but as far
6 -- I was here for a Class A violation and Class C, all for
7 coming late, not showing up and the reason why I wasn't
8 showing up, last time I was here, it was for, like, minor
9 infractions.

10 So I know it seems like I've been here a lot and,
11 yes, I did say I needed the drugs. I -- I was seeking drug
12 treatment. I was seeking -- now, she was coming around, I was
13 talking -- and she, like, commended me for how I changed, and
14 I was seeking drug treatment. I had to go to the V.A. to get
15 my medicine.

16 So as far as the 36 months and I've been -- I was
17 incarcerated for nine months for the last time I was here.
18 So, it wasn't like I was just, you guys, I was just getting a
19 slap on the wrist. I -- I was incarcerated nine months so --
20 and this -- and I've been incarcerated two months so you might
21 not have to revoke my probation but I was serving jail time
22 and these are Class C violations, all for minor infractions.
23 I was going to take my urinalysis.

24 When she came to my house, my mother's house, she
25 gave a slip to my mother's boyfriend. I didn't get that slip

1 till two weeks later. She never called or even mailed the
2 letter. He's senile so I just looked into the mail and I seen
3 it and the -- the warrant was already issued. So, it was
4 either turn myself in or get locked up or continue working.

5 So, I know it seems like I've been here over and
6 over again but I was here for a Class -- eight, nine months
7 arrested for a Class A violation that I didn't do, you know,
8 and these are Class C violations. All together, I've been --
9 and my sentence was only 19 months for my total sentence and
10 then to get -- try to get me for 36 months for these minor
11 infractions.

12 I know I need help and I know I put myself in
13 situations that I shouldn't, I know, I used bad judgment but
14 it's an ongoing thing with the addiction. And I did seek help
15 and she knows that I seek help -- it was for six months I've
16 been free and as you -- my fiancé, had a lot of things to do.
17 I was living with my mother.

18 The stress of living with my mother and dealing with
19 that, working with no car and I was -- the last time I was
20 here, I showed you that I was taking care of my daughter in --
21 she goes to college in Florida. I gave her money orders. I
22 need to be out here on the street. But as Mr. Troyer's trying
23 to say that I've been getting slaps on the wrist and I
24 haven't.

25 The last time, I was in nine months. I've been

1 locked up two months. That's a -- I put myself in situations
2 where I should not. At my age, I should not be putting myself
3 there.

4 As far as my addiction, yes, I -- it's -- it's
5 something I have to take care of myself and being locked up is
6 not because I could get out and still do the same thing. I'm
7 working now and I can verify that. That's -- they went and --
8 this is the first time. No one contacted me, no one gave --
9 not only this, this is the first time me saying this.

10 I've been locked up two months so I never saw -- the
11 reason why I'm giving -- bringing this stuff is because this
12 is the first time I even read this. So how can I present
13 something to the Court earlier and no one comes to see me so I
14 can present it to the Court. I'm just over across the street
15 sitting.

16 So as far as the 36 months, I know I violated but
17 they're making it look worse than it really is. I was taking
18 the urinalysis. If it -- ask her how many times that I did
19 take the urinalysis. She comes to my house knowing that I'm
20 at work. So if you come in the daytime and then you give a
21 letter to my mother's boyfriend --

22 THE COURT: How does she know that you're at work?
23 You didn't tell her that you were working.

24 THE DEFENDANT: I -- I told her if the conditions
25 was for me to get a job, she knew that I was working. If --

1 if I went and -- if she didn't -- she would have violated me
2 if she knew I was -- I was out there three months and finding
3 a job --

4 THE COURT: She just told me you didn't tell her
5 that you were working at PH --

6 THE DEFENDANT: I said, with PHA -- at the time, I
7 wasn't working at PHA. I was working over in Jersey. I've --
8 see, the slips, the monthly -- she got -- she got to have the
9 monthly slips that my pay. Tell her to produce them. Produce
10 the slips. She had -- for me, I had to fill out one every
11 month. I know she has them. She knew I was working. She has
12 to have them. As to -- I filled them out.

13 Every time you go to Probation, I filled out the
14 month -- monthly reports, okay. Ask her, do she have them.
15 She told me that, she wouldn't -- she would have violated me
16 way back then if I didn't fill them out. So, she's coming in
17 today saying that I never filled out a monthly report. And I
18 -- my lawyer asked if I did -- if she can produce a monthly
19 report, that will prove that -- that she knew I was working
20 over in Jersey and I know she has to have one.

21 THE COURT: Anything else?

22 MR. BRENNAN: I'm going to wait until Mr. Williams
23 is finished.

24 THE DEFENDANT: I would like for her to produce the
25 monthly reports that I -- I mean, she has to have it.

1 THE COURT: Mr. Brennan?

2 MR. BRENNAN: You finished?

3 THE DEFENDANT: Yeah.

4 MR. BRENNAN: Your Honor, I do have some other
5 remarks.

6 As often happens in -- in various matters with the
7 Court, there's a difference in the style or approach between
8 the lawyers' manner of handling things and the client's. Mr.
9 Williams certainly has the right to speak but what I was about
10 to say earlier was, the case is what it is. This is not the
11 first time we've been here; however, Your Honor, I'd ask the
12 Court when the Government asked you to warehouse Mr. Williams,
13 it's excessive, Your Honor.

14 If this was the first time we were here, I would ask
15 the Court to give Mr. Williams every opportunity, which the
16 Court has done in the past. But to -- to jump from that end
17 of the spectrum to a request to warehouse him when really
18 there -- it appears to me, and I argue to the Court,
19 hopefully, it appears to the Court, that the difficulties Mr.
20 Williams has had in complying with what would seem to be some
21 fairly straightforward, easy to comply with rules and
22 regulations, seem to be substance abuse related.

23 I would argue to the Court that there's no need to
24 warehouse a defendant who is working. He did not notify the
25 P.O. for several reasons, not the least of which was as he

1 said earlier, he was afraid to notify the P.O. for -- or
2 notify the job for fear of losing the job. And during his
3 time out, the -- the recurring problem is this inability to
4 deal with the substance abuse issues.

5 So, I'd ask the Court to fashion an appropriate
6 sentence, not a warehousing-type sentence. I don't think it's
7 appropriate. I argue it's not appropriate but whatever
8 sentence the Court fashions, I'd ask -- I think the
9 Government's in agreement that Mr. Williams be credited for
10 the nine months that he has been in. It may be longer now
11 because I believe that nine months was from a prior
12 incarceration related to this matter and that drug therapy be
13 part of the program.

14 Mr. Williams has asked for it and I think that it's
15 obvious that he's in need of it and --

16 THE COURT: Well, it's not -- he says he doesn't
17 need it and there's no evidence that he failed to report to
18 the probation officer because he was having drug issues.

19 MR. BRENNAN: It's -- it's a bit of a conundrum,
20 Your Honor, but I -- I believe that he may -- he may -- and he
21 certainly just reiterated to me, he may have walked the line
22 on that so to speak but he does need it. He's aware that he
23 needs it.

24 Thank you, Your Honor.

25 Judge, well, also, just so the record's clear, Your

1 Honor. I did, in fact, meet with Mr. Williams at the FDC, I
2 think, about a week or ten days ago and we discussed the fact
3 that these were Class C violations and what the ranges were.
4 And Ms. Badia was in my office, I believe, on Monday and I --
5 I don't believe that we had a copy of the petition to give
6 her. We did give her the docket entry so Mr. Williams and I
7 certainly have discussed this matter prior to today.

8 THE DEFENDANT: One thing, Your Honor, I was -- Ms.
9 Schoonmaker know -- knows that I was seeking outpatient
10 treatment on Germantown Avenue. I was going three times a
11 week so I did make the -- she knew I was trying to better
12 myself. So, I did not disregard my probation. I did -- I
13 know that I need help.

14 So what the V.A. does, they -- they send you out to
15 certain outpatient treatment. You have to go three times and
16 they -- is called ARU. I was going every week. I was
17 going and she knew I was going every week. So what -- what
18 would happen was, when they got into the urinalysis, the
19 confusion -- I would go take the urinalysis and I wouldn't go
20 see her but she was coming around on the home visits.

21 So as far as my thing is, I can't make -- I used
22 some bad judgments -- when I seen that she gave me that letter
23 saying that she would put a warrant for my arrest if I didn't
24 go see her, it was two weeks after she gave me the letter.
25 So, that's where the confusion came in. It wasn't like I was

1 just -- like I walked out and was not going to see her when --
2 going to take my urinalysis. That's where the problem came
3 in. That's where the problem came in, but I was -- she knew
4 that I was going to outpatient treatment.

5 As far as me going to the inpatient treatment, they
6 said that I didn't qualify for the inpatient treatment as of
7 that moment.

8 THE COURT: You were arrested for burglary?

9 THE DEFENDANT: Right.

10 THE COURT: Where were you when you were arrested?

11 THE DEFENDANT: I was -- I was -- I was at my
12 grandmother's house.

13 THE COURT: Thank you.

14 THE DEFENDANT: All right.

15 THE COURT: Supervised release is revoked. The
16 defendant is committed to the custody of the Bureau of Prisons
17 for a period of 30 months.

18 The defendant has in the past been given by this
19 Court many opportunities to comply with the conditions of
20 supervised release. More than once, the Court has reiterated
21 to the defendant the importance of reporting. This defendant
22 took it upon himself not to report. He made bad choices. He
23 now asks the Court to excuse him from those bad choices.

24 In effect, he sought to administer his own
25 supervision, to be the Judge in the case, in effect. Well,

1 he's not the Judge in the case and he deserves to be punished
2 for his violations and he is being punished for 30 months.
3 The conditions, a fine, and special assessment are reimposed.

4 The defendant will be given credit for the time he's
5 been in Federal custody awaiting disposition of this petition.
6 That's two months at most as I understand it.

7 If he's been in incarceration in the state system on
8 the burglary charge, that's not to be credited.

9 The nine months previously imposed for previous
10 violations is not credited.

11 Anything further?

12 MR. BRENNAN: Your Honor, three -- two and a half or
13 actually three requests; one would be that to the degree that
14 the Court is willing that the Court recommend to the BOP that,
15 if it's practical, that they house Mr. Williams as close to
16 Philadelphia as possible.

17 The second is that drug treatment be made available
18 to Mr. Williams at whatever facility he's at that he's --
19 because he is in need of it and he did acknowledge again today
20 that he's in need of it.

21 With regard to the -- to the nine months, I -- I
22 would ask the Court because I don't believe there's any
23 disagreement from the Government, I think it's unclear,
24 frankly, where if anywhere those nine months were credited to
25 Mr. Williams. So, I would ask the Court that if the BOP

1 decides that the nine months should've been credited for the
2 Federal sentence, that the Court allow it.

3 THE COURT: If the Bureau of Prisons determines that
4 nine months should be credited in addition to other time,
5 then, nothing that I've said will countermand that.

6 MR. BRENNAN: Understood, Your Honor.

7 THE COURT: I don't -- I don't see that these two
8 things are connected. These are new violations.

9 With respect to the request that he be incarcerated
10 at someplace close to Philadelphia, that request is denied.
11 The Bureau of Prisons will place him wherever he can be
12 placed.

13 With the request that he be enrolled in a drug
14 treatment program, I don't think that such exists. The Court
15 will recommend to the Bureau of Prisons two things; that he
16 participate in a drug counseling program, and number two, that
17 he be permitted to work in the prison work program under the
18 Financial Responsibility Program so as to pay the fine and --
19 and the special assessment.

20 MR. BRENNAN: I didn't hear that, Your Honor. I'm
21 sorry.

22 THE COURT: So as to pay the fine and the special
23 assessment.

24 MR. TROYER: I think that it wasn't a fine, but
25 actually restitution. I think it was --

1 THE COURT: Or restitution.

2 MR. TROYER: -- \$4,557.38 which was previously
3 imposed by -- by the Court but is -- has not been paid.

4 THE COURT: The restitution and the special
5 assessment, those obligations are reimposed.

6 Is there anything further?

7 MR. BRENNAN: No, Your Honor.

8 THE COURT: I'm confused about this nine months.

9 MR. TROYER: I -- I've conferred with the -- the
10 probation officer. Apparently, he was -- it took the state
11 some time to pick him up for the warrant in the last charge.
12 It's -- it's not on the pending warrant. It's on the previous
13 warrant. So, I -- I don't know that he gets nine months
14 credit time served for -- for not being picked up by the state
15 on -- on the previous warrant.

16 I think it's just a -- I think that would only -- he
17 would only get Federal credit for time served for -- for this
18 violation for the current warrant.

19 MR. BRENNAN: Your Honor, I spoke yesterday with Ms.
20 Schoonmaker about this very issue because I -- I discussed it
21 with the defendant at the FDC last week and none of us are
22 crystal clear on where it will go. That's the BOP's decision.
23 But my -- my argument and for the record I would state that
24 it's my understanding -- my recollection that he was
25 incarcerated for nine months as a result of the pending

1 violation of -- prior to this. We were here, I believe, on
2 August 3rd of the year 2006 and I'd ask that -- and I don't
3 believe there was any other sentence, Federal or state, that
4 that time was credited to. I believe, he was incarcerated
5 because of Your Honor's detainer.

6 Ms. Schoonmaker can correct me if I'm wrong but, if
7 that's the case, I would -- I would argue to the Court and,
8 hopefully, the BOP will see it that if he did nine months and
9 it was related to this case and a violation in this case
10 albeit an earlier violation, that it should be credited to the
11 sentence.

12 THE COURT: There being nothing else, Court stands
13 adjourned. The defendant is remitted to the custody of the
14 Bureau of Prisons.

15 MR. BRENNAN: Should I advise the defendant, Your
16 Honor?

17 MR. TROYER: In terms of the --

18 THE COURT: The defendant has ten days from today to
19 file a notice of appeal with the Court of Appeals.

20 Likewise, the Government has ten days from today to
21 file a notice of appeal.

22 MR. BRENNAN: Thank you, Your Honor. May we be
23 excused?

24 MR. TROYER: Thank you, Your Honor.

25 THE COURT: Yes. Thank you.

Supervised release is not imposed.

(Proceedings concluded at 12:58 p.m.)

* * *

C E R T I F I C A T I O N

I, Vivian Pomykacz, court approved transcriber,
certify that the foregoing is a correct transcript from the
official electronic sound recording of the proceedings in the
above-entitled matter.

____ April 3, 2009

VIVIAN POMYKACZ

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